

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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ROBERT P. GOODRICH,

Petitioner,

v.

TIM HALL,

Respondent.

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Civil Action No. 03-12541-NG

**RESPONDENT'S MOTION TO DISMISS  
PETITION FOR WRIT OF HABEAS CORPUS**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the respondent, Tim Hall, respectfully submits this motion to dismiss the petition for writ of habeas corpus filed by the petitioner, Robert P. Goodrich, on the grounds that the petition fails to state a claim upon which relief may be granted. In support of his motion, and as is set forth more fully in the accompanying memorandum of law, the respondent states that the petitioner has failed to exhaust the claims stated in his petition for a writ of habeas corpus. Specifically, the petitioner's claims were never presented to the state court as federal constitutional claims. Moreover, the factual basis of one of the petitioner's claims was not presented to the Massachusetts Supreme Judicial Court in any fashion. Because the petitioner has not yet provided the state's highest court with the first opportunity to pass on the merits of these claims, the petition should be dismissed. 28 U.S.C. § 2254(b)-(c); *Rose v. Lundy*, 455 U.S. 509, 510 (1982).<sup>1</sup>

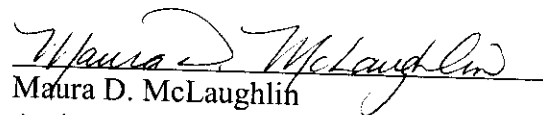
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<sup>1</sup> Respondent's remaining defenses are not addressed here because the doctrine of exhaustion mandates dismissal of the petition. In the event that this Court declines to dismiss the petition due to failure to exhaust, the respondent reserves the right, and requests the opportunity,

WHEREFORE, the respondent respectfully requests that this Court dismiss this habeas petition on the grounds that it contains unexhausted claims.

Respectfully submitted,

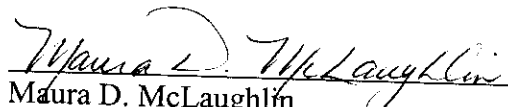
THOMAS F. REILLY  
ATTORNEY GENERAL

  
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Dated: March 11, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon counsel for the petitioner, Robert P. Goodrich, on March 11, 2004, by depositing the copy in the office depository for collection and delivery by first-class mail, postage pre-paid, to Jill L. Brenner, Esq., counsel for the petitioner, Connelly, Conroy & Gelhaar, One Beacon Street, 33rd Floor, Boston, Massachusetts 02108.

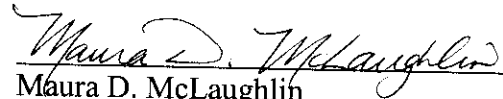
  
Maura D. McLaughlin

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to file an answer and assert all other applicable defenses.

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

I hereby certify that on March 8, 2004, I did confer in good faith, via telephone, with Jill L. Brenner, Esq., counsel for the petitioner, in an effort to narrow or resolve the issues raised in this motion.

  
Maura D. McLaughlin